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BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Matter of )  
Limitations on Commercial Time )  
on Television Broadcast Stations )

DOCKET NO. 93-254

To: The Commission

COMMENTS OF BROOKS BROADCASTING

Brooks Broadcasting, by its attorneys, hereby submits the following comments in response to the Notice of Inquiry, 8 FCC Rcd. 7277, released October 7, 1993, in the above-captioned proceeding. Brook Broadcasting is the permittee of a new television station on Channel 61 in Phoenix, Arizona. Brooks opposes the imposition of any new restrictions on the amount of commercial matter in television broadcasts.

The limits the FCC once imposed on commercial matter were grounded in the perception that viewers had no choice but to watch the programming broadcast by their local television operators. Whether that view of the world was justified then, it is not justifiable now. In the Phoenix market, for example, viewers have the option of watching any one of five network-affiliated stations (including a Univision affiliate) and three independent television stations that operate from the South Mountain antenna farm, in addition to several low power television stations. Viewers who

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prefer commercial-free programming have the option of tuning in to a local VHF noncommercial educational television station. If none of these options interest the viewer, he or she can rent a movie or video tape, as the majority of households now have video cassette recorders, or may choose simply to go out to watch a movie. The choices expand considerably in the case of the large number of households in the market who receive cable television service. Most area cable systems have at least thirty-six channels, providing a panoply of choices for cable subscribers. Clearly, in 1993 no one in America is being forced to watch an infomercial, or to view more minutes of commercial matter per hour than he or she can tolerate.

The explosion of viewing options has diluted the advertiser base that was once firmly loyal to local television broadcasters. Where Brooks' new station will provide the tenth full power television channel to operate from South Mountain, it is far from clear that sufficient demand exists for program time to support the station without holding open the option of a long form commercial for at least a part of the station's broadcast day.

The multitude of cable channels also demonstrates the futility of any effort to ban infomercials from the broadcast screen. If broadcasters like Brooks are no longer permitted to air infomercials, that program form will simply escape to cable, with its abundance of channels. Such a result would not serve the public interest, for while it would provide perhaps a marginal increase in the amount of noncommercial minutes of entertainment programming available to over-air viewers, it would deprive those

who do not subscribe to cable of the viewing choice that infomercials provide.

No particular sanctity should attach to the short form spot announcements that presently dominate the commercial broadcast landscape. Brooks submits that viewers will not make better purchasing decisions based on a thirty-second commercial as opposed to a thirty-minute presentation that examines the merits of a product or service indepth. In a country such as ours where freedom of expression is prized, no fine should be imposed for allowing an advertiser the freedom to maximize the amount of information about his or her product or service through the broadcast medium.

In sum, there is no need for a new regulation imposing commercial limits on broadcasters, or even an "informal" processing guideline that would impose further delays on an application processing system that is already suffering from severe backlogs.

Accordingly, the Commission should terminate this proceeding without adopting any additional regulations.

Respectfully submitted,

BROOKS BROADCASTING

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December 20, 1993